



# GENERAL ASSEMBLY

## COMMONWEALTH OF KENTUCKY

### 2011 REGULAR SESSION

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SENATE BILL NO. 71

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THURSDAY, FEBRUARY 17, 2011

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The following bill was reported to the House from the Senate and ordered to be printed.

RECEIVED AND FILED  
DATE March 16, 2011  
4:01 pm  
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ELAINE N. WALKER  
SECRETARY OF STATE  
COMMONWEALTH OF KENTUCKY  
BY R. Allen

1 AN ACT relating to the practice of diabetes education and making an appropriation  
2 therefor.

3 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

4 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO  
5 READ AS FOLLOWS:

6 *As used in Sections 1 to 8 of this Act, unless the context requires otherwise:*

7 *(1) "Board" means the Kentucky Board of Licensed Diabetes Educators;*

8 *(2) "Diabetes education" means a collaborative process through which people with*  
9 *or at risk for diabetes gain the knowledge and skills needed to modify behavior*  
10 *and successfully self-manage the disease and its related conditions; and*

11 *(3) "Licensed diabetes educator" means a health care professional who has met the*  
12 *requirements of Sections 6, 7, and 8 of this Act and who focuses on training or*  
13 *educating people with or at risk for diabetes and related conditions to change*  
14 *their behavior to achieve better clinical outcomes and improved health status.*

15 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO  
16 READ AS FOLLOWS:

17 *(1) No person shall use the title "licensed diabetes educator" or hold himself or*  
18 *herself out as a "licensed diabetes educator" unless he or she is licensed*  
19 *pursuant to Sections 1 to 8 of this Act.*

20 *(2) Nothing in Sections 1 to 8 of this Act shall apply to persons licensed, certified, or*  
21 *registered under any other provision of the Kentucky Revised Statutes, including*  
22 *but not limited to physicians, nurses, pharmacists, dietitians, and nutritionists or*  
23 *students in accredited training programs in those professions, and nothing in*  
24 *Sections 1 to 8 of this Act shall be construed to limit, interfere with, or restrict the*  
25 *practice, descriptions of services, or manner in which they hold themselves out to*  
26 *the public.*

27 *(3) Nothing in Sections 1 to 8 of this Act shall be construed to alter, amend, or*

interfere with the practice of those who provide health care services, including but not limited to physicians, nurses, pharmacists, dietitians, and nutritionists.

(4) Nothing in Sections 1 to 8 of this Act shall apply to activities and services of an accredited institution of higher education as part of a program of studies.

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created the Kentucky Board of Licensed Diabetes Educators consisting of five (5) members who shall be appointed by the Governor as follows:

(a) One (1) member shall be a licensed medical physician with experience in the delivery of diabetes education appointed from a list of three (3) names submitted by the State Board of Medical Licensure;

(b) One (1) member shall be a registered nurse with experience in diabetes education appointed from a list of three (3) names submitted by the Kentucky Board of Nursing;

(c) One (1) member shall be a pharmacist experienced in diabetes education licensed under KRS Chapter 315 appointed from a list of three (3) names submitted by the Kentucky Board of Pharmacy;

(d) One (1) member shall be a licensed dietitian or certified nutritionist with experience in diabetes education appointed from a list of three (3) names submitted by the Kentucky Board of Licensure and Certification for Dietitians and Nutritionists; and

(e) One (1) member shall be a citizen at large who is not employed in the health care field.

One (1) of the members appointed under paragraph (b), (c), or (d) of this subsection shall have completed either the credentialing program of the American Association of Diabetes Educators or the National Certification Board for Diabetes Educators.

(2) (a) The Governor shall initially appoint one (1) member and the citizen at large to terms of four (4) years, two (2) members to terms of three (3) years, and one (1) member to a term of two (2) years.

(b) All reappointments to the board shall be for a term of four years.

(c) No member shall serve more than two (2) consecutive terms and shall serve on the board until his or her successor is appointed.

(3) The board shall organize annually and elect one (1) of its members as chair and one (1) of its members as secretary. A quorum of the board shall consist of three (3) members. The board shall meet at least semiannually and upon the call of the chair, or at the request of two (2) or more members to the secretary of the board.

(4) The board shall be placed for administrative purposes under the Office of Occupations and Professions of the Public Protection Cabinet.

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

The board shall:

(1) Promulgate administrative regulations in accordance with KRS Chapter 13A to carry out and enforce the provisions of Sections 1 to 8 of this Act, including creating a code of ethics, standards of practice, and continuing education requirements for licensed diabetes educators, based upon policies and positions adopted by the American Association of Diabetes Educators;

(2) Issue initial licenses and license renewals to individuals. A license shall not be issued to a partnership, unincorporated association, corporation, or similar business organization;

(3) Investigate alleged violations brought to its attention, conduct investigations, and schedule and conduct administrative hearings in accordance with KRS Chapter 13B to enforce the provisions of Sections 1 to 8 of this Act and administrative regulations promulgated pursuant to Sections 1 to 8 of this Act. In conducting

investigations the board is authorized to:

(a) Administer oaths;

(b) Receive evidence;

(c) Interview persons;

(d) Require the production of books, papers, documents, or other evidence; and

(e) Institute civil and criminal proceedings against violators of Sections 1 to 8 of this Act. The Attorney General, Commonwealth's attorneys, and county attorneys shall assist the board in prosecuting violations of Sections 1 to 8 of this Act;

(4) Keep a record of its proceedings and a register of all persons licensed as diabetes educators including the name of the licensee, the license number, date of issue, and last known place of business. The list shall be available to anyone upon request and payment of a fee not to exceed the cost of the publication;

(5) Collect or receive all moneys owed pursuant to the provisions of Sections 5, 6, and 8 of this Act and deposit all moneys into the fund established by Section 5 of this Act; and

(6) Reimburse members of the board for actual travel expenses incurred for attending the meetings of the board.

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

(1) All licensing amounts and other moneys received by the board pursuant to the provisions of this section and Sections 6 and 8 of this Act shall be deposited in the State Treasury to the credit of a revolving fund which is hereby established. Amounts in the fund shall be used for the purposes set forth in Sections 1 to 8 of this Act.

(2) Notwithstanding KRS 45.229, any moneys remaining in the fund at the close of the fiscal year shall not lapse but shall be carried forward to the next fiscal year

to be used for the purposes established by the board.

(3) Any interest earnings of the fund shall become part of the fund and shall not lapse.

(4) The expenses of the board shall be paid from this revolving fund.

(5) Moneys deposited in the fund shall be used and are hereby appropriated for the purposes specified in Sections 1 to 8 of this Act.

→ SECTION 6. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

An applicant for licensure as a diabetes educator shall:

(1) File a written application on forms provided by the board;

(2) Provide evidence to the board showing successful completion of one (1) of the following:

(a) The American Association of Diabetes Educators' "Core Concepts Course" with demonstrable experience in the care of people with diabetes under supervision that meets requirements specified in administrative regulations promulgated by the board;

(b) The credentialing program of the American Association of Diabetes Educators or the National Certification Board for Diabetes Educators; or

(c) An equivalent credentialing program as determined by the board;

(3) Pay licensing amounts as promulgated by the board through administrative regulation with the following restrictions:

(a) Initial licensing shall not exceed one hundred dollars (\$100);

(b) Annual renewal shall not exceed one hundred dollars (\$100);

(c) Biennial renewal shall not exceed two hundred dollars (\$200); and

(d) Late renewal shall not exceed one hundred fifty dollars (\$150);

(4) (a) Licenses shall be renewed annually or biennially if the board requires biennial license renewal by administrative regulation.

(b) Licenses not renewed within thirty (30) days after the renewal date shall pay a late penalty as promulgated by the board in administrative regulation; and

(c) Licenses not renewed within ninety (90) days of the renewal date shall lapse and may only be reinstated with payment of a late renewal penalty and initial licensing amount as promulgated by the board in administrative regulation.

(5) Notwithstanding subsections (1) to (4) of this section, prior to July 1, 2012, a person who the board finds to have successfully achieved a core body of knowledge and skills in the biological and social sciences, communication, counseling, and education, by training or instruction, as well as experience in the care of people with diabetes under supervision that meets the requirements specified in administrative regulations promulgated by the board, may be issued an initial license by the board upon payment of an initial licensing fee, completion of a written application on forms provided by the board, and submission of any other information requested by the board.

➔SECTION 7. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

(1) When renewing a license, each licensee shall provide to the board documentation of the successful completion of fifteen (15) hours of board-approved continuing education credits. A maximum of fifteen (15) additional hours may be carried over into the next renewal period.

(2) Waivers or extensions of continuing education may be approved at the discretion of the board.

➔SECTION 8. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

(1) The board may deny or refuse to renew a license, may suspend or revoke a license, may issue an administrative reprimand, or may impose probationary

conditions or fines not to exceed five hundred dollars (\$500) when the licensee has engaged in unprofessional conduct that has endangered or is likely to endanger the health, welfare, or safety of the public. Unprofessional conduct shall include the following:

(a) Obtaining or attempting to obtain a license by fraud, misrepresentation, concealment of material facts, or making a false statement to the board;

(b) Being convicted of a felony in any court if any act for which the licensee or applicant for license was convicted is determined by the board to have a direct bearing on whether the person is trustworthy to serve the public as a licensed diabetes educator. "Conviction" as used in this paragraph, shall include a finding or verdict of guilty, an admission of guilt, or a plea of nolo contendere in a court of law;

(c) Violating any lawful order or administrative regulation promulgated by the board;

(d) Violating any provision of Sections 1 to 8 of this Act or administrative regulation promulgated by the board;

(e) Evidence of gross negligence or gross incompetence in the practice of diabetes education; and

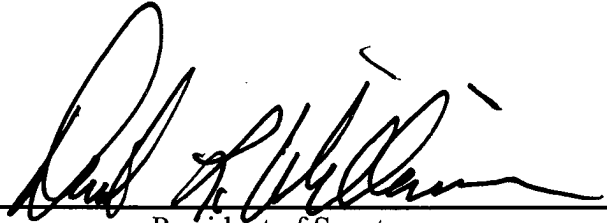
(f) Violating the standards of practice or the code of ethics as promulgated by administrative regulations.

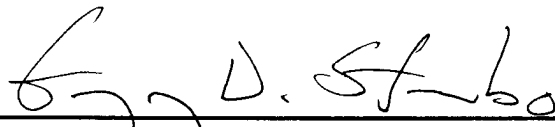
(2) All administrative hearings for the disciplinary action against a license or certificate holder shall be conducted in accordance with KRS Chapter 13B.

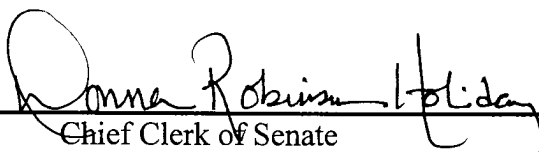
→ Section 9. In recognition of the serious problem diabetes presents to the general health of the Commonwealth, and in recognition of the dedication and commitment of health care professionals throughout the state working in the care and education of diabetic patients, World Diabetes Day shall be recognized on the fourteenth day of November each year to draw attention to issues of importance to diabetes professionals



1 and patients and to keep diabetes firmly in the public spotlight.

  
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President of Senate

  
\_\_\_\_\_  
Speaker-House of Representatives

Attest:   
\_\_\_\_\_  
Chief Clerk of Senate

Approved   
\_\_\_\_\_  
Governor

Date 3-16-11